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**U.S. District Court  
Alabama Middle District (Montgomery)  
CRIMINAL DOCKET FOR CASE #: 2:04-cr-00169-WHA-DRB-ALL  
Internal Use Only**

Case title: USA v. Black

Date Filed: 08/17/2004

Assigned to: Honorable W. Harold  
Albritton, III  
Referred to: Honorable Delores R. Boyd

**Defendant**

**Horace Milton Black (1)**  
*TERMINATED: 04/14/2005*

represented by **Federal Defender**  
Federal Defenders  
Middle District of Alabama  
201 Monroe Street, Suite 1960  
Montgomery, AL 36104  
334-834-2099  
Fax: 834-0353  
Email: ECFCMALM@fd.org  
*TERMINATED: 10/27/2004*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Terry Russell Smyly**  
2038 Le Bron Avenue  
Montgomery, AL 36106  
(334) 262-6460  
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Email: tsmyly420@aol.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*  
*Designation: CJA Appointment*

**Joseph Peter Van Heest**  
Law Office of Joseph P. Van Heest,  
LLC  
P.O. Box 4026  
402 S Decatur St  
Montgomery, AL 36103  
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*TERMINATED: 10/27/2004*  
*ATTORNEY TO BE NOTICED*

**Pending Counts**

BANK ROBBERY BY FORCE OR  
VIOLENCE - NMT\$250,000, [\*]; NMT  
25Y, B; NMT 5Y SUP REL; \$100 SA;  
VWPA; G-LINES  
(1)

**Disposition**

140 Mos Imp; 5 Yrs Sup Rel; \$100 SA

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

VIOLENT  
CRIME/DRUGS/MACHINE GUN -  
NMT \$250,000, [\*]; NLT 7Y, NMT  
LIFE, B; NMT 5Y SUP REL; \$100 SA;  
VWPA; G-LINES  
(2)

**Disposition**

Dismissed by Motion of the  
Government

**Highest Offense Level (Terminated)**

Felony

**Complaints**

18:2113(a) and (d) Bank Robbery by  
Force or Violence

**Disposition**

**Plaintiff**

USA

represented by **A. Clark Morris**  
U.S. Attorney's Office  
PO Box 197  
Montgomery, AL 36101-0197  
334-223-7280  
Fax: 223-7560  
Email: [clark.morris@usdoj.gov](mailto:clark.morris@usdoj.gov)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
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08/09/2004	<u>1</u>	COMPLAINT as to Horace Milton Black (1). (ws)[2:04-mj-00071-DRB] (Entered: 08/10/2004)
08/09/2004	<u>2</u>	Arrest Warrant Issued as to Horace Milton Black. (ws ) [2:04-mj-00071-DRB] (Entered: 08/10/2004)
08/10/2004		NOTICE received from the U.S. Marshal Services of arrest of Horace Milton Black (ws)[2:04-mj-00071-DRB] (Entered: 08/10/2004)
08/10/2004	<u>3</u>	MOTION for Detention Hearing by USA as to Horace Milton Black. (Morris, A.) [2:04-mj-00071-DRB] (Entered: 08/10/2004)
08/10/2004		Arrest of Horace Milton Black (ws ) [2:04-mj-00071-DRB] (Entered: 08/10/2004)
08/10/2004	<u>4</u>	Minute Entry for proceedings held before Judge Delores R. Boyd :Initial Appearance as to Horace Milton Black held on 8/10/2004 (Tape #FTR: 2:48 - 2:56.) (ws ) [2:04-mj-00071-DRB] (Entered: 08/10/2004)
08/10/2004	<u>5</u>	CJA 23 Financial Affidavit by Horace Milton Black (ws)[2:04-mj-00071-DRB] (Entered: 08/10/2004)
08/10/2004		Attorney update in case as to Horace Milton Black. Attorney Federal Defender for Horace Milton Black added. (ws ) [2:04-mj-00071-DRB] (Entered: 08/10/2004)
08/10/2004		ORAL ORDER as to Horace Milton Black appointing the Federal Defenders to represent the defendant. Signed by Judge Delores R. Boyd on 8/10/04. (ws ) [2:04-mj-00071-DRB] (Entered: 08/10/2004)
08/10/2004	<u>6</u>	Arrest Warrant Returned Executed on 8/10/04 as to Horace Milton Black. (ws, ) [2:04-mj-00071-DRB] (Entered: 08/10/2004)
08/11/2004	<u>7</u>	ORDER as to Horace Milton Black Detention Hearing set for 8/16/2004 10:00 AM in Courtroom 4A before Honorable Delores R. Boyd. Preliminary Examination set for 8/19/2004 03:00 PM in Courtroom 4A before Honorable Delores R. Boyd.. Signed by Judge Delo[2:04res R. Boyd on 8/11/2004. (sql, ) [2:04-mj-00071-DRB] (Entered: 08/11/2004)
08/11/2004	<u>8</u>	ORDER APPOINTING FEDERAL PUBLIC DEFENDER as to Horace Milton Black Federal Defender for Horace Milton Black appointed. . Signed by Judge Delores R. Boyd on 8/11/2004. (sql, ) [2:04-mj-00071-DRB] (Entered: 08/11/2004)
08/11/2004	<u>9</u>	NOTICE OF ATTORNEY APPEARANCE: Joseph Peter Van Heest appearing for Horace Milton Black (Van Heest, Joseph)[2:04-mj-00071-DRB] (Entered: 08/11/2004)
08/16/2004	<u>10</u>	Minute Entry for proceedings held before Judge Delores R. Boyd :Detention Hearing as to Horace Milton Black held on 8/16/2004 (Tape #FTR: 10:02 - 10:15 am.) (sql, ) [2:04-mj-00071-DRB] (Entered: 08/16/2004)


08/16/2004	<u>11</u>	ORDER OF DETENTION as to Horace Milton Black . Signed by Judge Delores R. Boyd on 8/16/2004. (sql, ) [2:04-mj-00071-DRB] (Entered: 08/17/2004)
08/16/2004		***Motions terminated as to Horace Milton Black : <u>3</u> MOTION for Detention Hearing filed by USA. (ekl, ) (Entered: 09/02/2004)
08/17/2004	<u>12</u>	ORDER CANCELLING DEADLINE of preliminary hearing as to Horace Milton Black. . Signed by Judge Delores R. Boyd on 8/17/2004. (sql, ) [2:04-mj-00071-DRB] (Entered: 08/19/2004)
08/17/2004	<u>13</u>	INDICTMENT as to Horace Milton Black (1) count(s) 1, 2. (sql, ) (Entered: 08/20/2004)
08/20/2004	<u>14</u>	ORDER to Produce Prisoner for Arraignment as to Horace Milton Black Arraignment set for 9/1/2004 10:00 AM in Courtroom 4A before Honorable Delores R. Boyd.. Signed by Judge Delores R. Boyd on 8/20/2004. (sql, ) (Entered: 08/20/2004)
08/23/2004		***Set/Clear Flags as to Horace Milton Black (ekl, ) (Entered: 08/23/2004)
08/27/2004	<u>15</u>	MOTION for Release from Custody <i>to agents</i> by USA as to Horace Milton Black. (Attachments: # <u>1</u> Text of Proposed Order)(Morris, A.) (Entered: 08/27/2004)
08/31/2004	<u>16</u>	ORDER as to Horace Milton Black re <u>15</u> MOTION for Release from Custody <i>to agents</i> filed by USA, Motion GRANTED and terminated. The USM shall release custody of defendant to agents 8/30/04 through 12/31/04. Signed by Judge Delores R. Boyd on 8/31/04. (ekl, ) (Entered: 08/31/2004)
09/01/2004	<u>17</u>	Minute Entry for proceedings held before Judge Delores R. Boyd :Arraignment as to Horace Milton Black (1) Count 1,2 held on 9/1/2004, Plea entered by Horace Milton Black Not Guilty on counts 1,2. (Tape #FTR: 10:17 - 10:20 am.) (sql, ) (Entered: 09/01/2004)
09/02/2004	<u>18</u>	ORDER ON ARRAIGNMENT Pretrial Conference set for 10/4/2004 02:30 PM in Courtroom 4A before Honorable Delores R. Boyd. Jury Trial set for 10/25/2004 10:00 AM in Courtroom 2C before Honorable W. Harold Albritton III. Pretrial Motions due by 9/24/2004. Discovery due by 9/21/2004.. Signed by Judge Delores R. Boyd on 9/2/04. (ekl, ) (Entered: 09/02/2004)
10/04/2004	<u>19</u>	Minute Entry for proceedings held before Judge Delores R. Boyd :Pretrial Conference as to Horace Milton Black held on 10/4/2004 (Tape #FTR: 3:25 - 3:29.) (ws, ) (Entered: 10/05/2004)
10/05/2004	<u>20</u>	PRETRIAL CONFERENCE ORDER as to Horace Milton Black Jury Trial (2 days) set for 10/25/2004 10:00 AM in Courtroom 2C before Honorable W. Harold Albritton III. Jury Selection set for 10/25/2004 10:00 AM in Courtroom 2D before Honorable W. Harold Albritton III.

		Voir Dire due by 10/18/2004. Counsel should not include questions seeking information which is provided in the jury questionnaire. Proposed Jury Instructions due by 10/18/2004 Motions in Limine (with a brief) due by 10/18/2004 Plea Agreement due by 10/18/2004.. Signed by Judge Delores R. Boyd on 10/5/04. (ekl, ) (Entered: 10/05/2004)
10/05/2004	21	WAIVER of Speedy Trial by Horace Milton Black (Van Heest, Joseph). SEALED by order 10/12/04, doc. 23. Modified on 10/13/2004 (ekl, ). (Entered: 10/05/2004)
10/12/2004		***Excludable XT started and stopped (10/12/04 - 1/31/05) as to Horace Milton Black pursuant to order, doc. 23. (ekl, ) (Entered: 10/13/2004)
10/12/2004		Jury Trial reset for 1/31/2005 10:00 AM in Courtroom 2C before Honorable W. Harold Albritton III. (ekl, ) (Entered: 10/13/2004)
10/25/2004	24	MOTION to Withdraw as Attorney of Record and For Appointment fo CJA Panel Attorney by Joseph P. Van Heest. by Horace Milton Black. (Van Heest, Joseph) (Entered: 10/25/2004)
10/27/2004		Attorney update in case as to Horace Milton Black. Attorney Terry Russell Smyly for Horace Milton Black added. (ekl, ) (Entered: 10/27/2004)
10/27/2004	25	ORDER as to Horace Milton Black GRANTING 24 MOTION to Withdraw as Attorney of Record and For Appointment of CJA Panel Attorney by Joseph P. Van Heest. filed by Horace Milton Black, Terry Russell Smyly is hereby appointed to represent Horace Milton Black. . Signed by Judge Delores R. Boyd on 10/27/04. (ekl, ) (Entered: 10/27/2004)
10/27/2004		Attorney update in case as to Horace Milton Black. Attorney Federal Defender and Joseph Peter Van Heest terminated. (ekl, ) (Entered: 10/27/2004)
10/28/2004	26	CJA 20 as to Horace Milton Black : Appointment of Attorney Terry Russell Smyly for Horace Milton Black. . Signed by Judge Delores R. Boyd on 10/27/04. (ekl, ) (Entered: 10/28/2004)
10/29/2004	27	NOTICE OF ATTORNEY APPEARANCE: Terry Russell Smyly appearing for Horace Milton Black (Smyly, Terry) (Entered: 10/29/2004)
01/24/2005		Set/Reset Deadlines/Hearings as to Horace Milton Black: Change of Plea Hearing set for 1/24/2005 11:00 AM in Courtroom 4A before Honorable Delores R. Boyd. (sql, ) (Entered: 01/24/2005)
01/24/2005	28	Consent to Enter Guilty Plea before U. S. Magistrate Judge as to Horace Milton Black (sql, ) (Entered: 01/24/2005)
01/24/2005		ORAL ORDER as to Horace Milton Black directing that the plea agreement be sealed. by Judge Delores R. Boyd on 1/24/2005. (sql, ) (Entered: 01/24/2005)



01/24/2005	<a href="#"><u>29</u></a>	SEALED PLEA AGREEMENT as to Horace Milton Black (sql, ) (Entered: 01/24/2005)
01/24/2005	<a href="#"><u>30</u></a>	Minute Entry for proceedings held before Judge Delores R. Boyd :Change of Plea Hearing as to Horace Milton Black held on 1/24/2005, Plea entered by Horace Milton Black (1) Guilty Count 1. (Court Reporter Jimmy Dickens.) (sql, ) (Entered: 01/24/2005)
01/25/2005	<a href="#"><u>31</u></a>	SEALED REPORT AND RECOMMENDATION concerning Plea of Guilty as to Horace Milton Black; Objections due by 2/8/05. (ws) (Entered: 01/25/2005)
01/25/2005	<a href="#"><u>32</u></a>	Set OBJECTION Deadline as to Horace Milton Black:Objections to Report and Recommendation concerning Plea of Guilty due by 2/8/2005. (ws, ) (Entered: 01/25/2005)
01/27/2005	<a href="#"><u>32</u></a>	Petition for order for Release from Custody by USA as to Horace Milton Black. (sql, ) (Entered: 01/27/2005)
01/27/2005	<a href="#"><u>33</u></a>	ORDER granting <a href="#"><u>32</u></a> Motion for Release from Custody as to Horace Milton Black (1). Signed by Judge Delores R. Boyd on 1/27/2005. (sql, ) (Entered: 01/27/2005)
02/09/2005	<a href="#"><u>34</u></a>	ORDER Accepting Guilty Plea as to Horace Milton Black that all pending deadlines applicable to this Defendant be terminated and that all pending motions applicable to this Defendant are hereby DENIED as moot. Signed by Judge W. Harold Albritton III on 2/9/05. (ws) (Entered: 02/09/2005)
02/09/2005	<a href="#"><u>35</u></a>	ORDER as to Horace Milton Black : Sentencing set for 4/12/2005 09:00 AM in Courtroom 2C before Honorable W. Harold Albritton III; that on or before 4/1/05, counsel for parties shall communicate in writing to probation officer any objections they have to the presentence report; that unless excused by the Chief Probation Officer, counsel for parties shall be available for conference on 4/1/05 at 9:00 a.m. to discuss issues contained in the presentence report. Signed by Judge W. Harold Albritton III on 2/9/05. (ws) (Entered: 02/09/2005)
04/07/2005	<a href="#"><u>37</u></a>	MOTION to Withdraw Plea of Guilty by Horace Milton Black. (Smyly, Terry) (Entered: 04/07/2005)
04/07/2005	<a href="#"><u>38</u></a>	BRIEF/RESPONSE in Support by Horace Milton Black re <a href="#"><u>37</u></a> MOTION to Withdraw Plea of Guilty (Smyly, Terry) (Entered: 04/07/2005)
04/08/2005	<a href="#"><u>39</u></a>	ORDER as to Horace Milton Black Responses due by 4/11/2005 at noon; Motion Hearing set for 4/12/2005 09:00 AM in Courtroom 2C before Honorable W. Harold Albritton III.. Signed by Judge W. Harold Albritton III on 4/8/2005. (sql, ) (Entered: 04/08/2005)
04/11/2005	<a href="#"><u>40</u></a>	MOTION for Reduction in Criminal Offense Level for Acceptance of Responsibility by USA as to Horace Milton Black. (Morris, A.) (Entered: 04/11/2005)

04/11/2005	<u>41</u>	RESPONSE to Motion by USA as to Horace Milton Black re <u>37</u> MOTION to Withdraw Plea of Guilty (Morris, A.) (Entered: 04/11/2005)
04/12/2005	<u>42</u>	Minute Entry for proceedings held before Judge W. Harold Albritton III: Motion Hearing as to Horace Milton Black held on 4/12/2005. ORAL ORDER GRANTING [36] MOTION for Downward Departure <i>and Certification of Substantial Assistance Pursuant to 5K1.1 USSG</i> filed by USA; ORAL ORDER DENYING <u>37</u> MOTION to Withdraw Plea of Guilty filed by Horace Milton Black; ORAL ORDER GRANTING <u>40</u> MOTION for Reduction in Criminal Offense Level for Acceptance of Responsibility filed by USA,, Sentencing held on 4/12/2005 as to Horace Milton Black for Horace Milton Black (1), Count(s) 1, 140 Mos Imp; 5 Yrs Sup Rel; \$100 SA; Count(s) 2, Dismissed by Motion of the Government. (Court Reporter Risa L. Entrekin.) (Attachments: # <u>1</u> Exhibit Gov't Exhibit List Maintained w/file in separate binder) (kcg, ) Modified on 4/18/2005 (kcg, ). (Entered: 04/18/2005)
04/12/2005		ORAL MOTION to Seal Document #36 Motion for Downward Departure as to Horace Milton Black. (kcg, ) (Entered: 04/18/2005)
04/12/2005		ORAL ORDER as to Horace Milton Black GRANTING ORAL MOTION TO SEAL [36] MOTION for Downward Departure <i>and Certification of Substantial Assistance Pursuant to 5K1.1 USSG</i> filed by USA. Signed by Judge W. Harold Albritton III on 4/12/05. (kcg, ) (Entered: 04/18/2005)
04/12/2005		ORAL ORDER as to Horace Milton Black GRANTING [36] MOTION for Downward Departure <i>and Certification of Substantial Assistance Pursuant to 5K1.1 USSG</i> filed by USA; DENYING <u>37</u> MOTION to Withdraw Plea of Guilty filed by Horace Milton Black; GRANTING <u>40</u> MOTION for Reduction in Criminal Offense Level for Acceptance of Responsibility filed by USA . Signed by Judge W. Harold Albritton III on 4/12/05. (kcg, ) (Entered: 04/18/2005)
04/12/2005		ORAL MOTION to Dismiss Count 2 of the Indictment by USA as to Horace Milton Black. (kcg, ) (Entered: 04/18/2005)
04/12/2005		ORAL ORDER as to Horace Milton Black GRANTING ORAL MOTION to Dismiss Count 2 of the Indictment filed by USA . Signed by Judge W. Harold Albritton III on 4/12/05. (kcg, ) (Entered: 04/18/2005)
04/14/2005	<u>43</u>	JUDGMENT as to Horace Milton Black (1), Count(s) 1, 140 Mos Imp; 5 Yrs Sup Rel; \$100 SA; Count(s) 2, Dismissed by Motion of the Government . Signed by Judge W. Harold Albritton III on 4/14/05. (kcg, ) (Entered: 04/18/2005)
04/14/2005		***Case Terminated as to Horace Milton Black (kcg, ) (Entered: 04/18/2005)
07/06/2005	<u>44</u>	Judgment Returned Executed as to Horace Milton Black on 6/28/05. (ws) (Entered: 07/12/2005)

08/17/2005	 <u>45</u>	CJA 20 as to Horace Milton Black: Authorization to Pay Terry Smyly Amount: \$ 6,966.00, Voucher # 050613000072. Signed by Judge Charles R. Wilson on 7/12/05. (ws) (Entered: 08/17/2005)
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